

**DELEGATION OF AUTHORITY
CLEAN WATER ACT (CWA)**

Class II Administrative Penalty: Initiation of Action; Public Notice; Consultation with
State; Negotiation and Signing Consent Agreements; and Assessing Penalties

1. **AUTHORITY.** Pursuant to Section 309(g) and 311 of the Clean Water Act, the authority to:
 - a. Make findings of fact; propose penalty to be assessed; issue, amend, or withdraw Class II administrative complaints;
 - b. Provide, or cause to be provided, public notice of proposed assessment and provide commenters with copies of orders entered on consent or on default;
 - c. Consult with states, as required;
 - d. Sign consent agreements between the agency and the party against whom a Class II penalty is proposed to be assessed;
 - e. Issue final orders assessing Class II penalties where no hearing is requested by the respondent or pursuant to a consent agreement; and
 - f. Decide petitions by commenters to set aside final orders entered without a hearing and provide copies and/or notice of the decision.
2. **TO WHOM REDELEGATED.**
 - a. The authorities in 1.a. and 1.d. are redelegated to the Director, Enforcement and Compliance Assurance Division, or equivalent.
 - b. The authorities in 1.b. and 1.c. are redelegated:
 - i. Through the Director, Enforcement and Compliance Assurance Division, or equivalent, and through the Branch Chief, Water Enforcement and Field Branch, or equivalent, and through the Section Chief, Surface Water Enforcement Section, or equivalent, to the staff possessing the appropriate qualifications.
 - ii. Through the Regional Counsel, or equivalent, and the Branch Chief, Water Law Branch, or equivalent, to the staff attorneys.
 - c. The authority in 1.e. is not redelegated, except the authority to issue final orders is redelegated to the Regional Judicial Officer in the Office of Regional Counsel.
 - d. The authority in 1.f. is redelegated to a petition officer on a case-by-case basis.
3. **LIMITATIONS.**
 - a. The regional administrator, division director, branch chief, section chief, or appropriate staff may exercise the above authorities only for those cases initiated by the region.
 - b. The OECA AA must notify the regional administrator, division director, branch chief, section chief, or appropriate staff before exercising 1.a. and must consult with the regional administrator, division director, branch chief, section chief, or appropriate staff before exercising authority 1.c; the OECA AA must consult with the regional

administrator, division director, branch chief, section chief, or appropriate staff and notify the AA Office of Water before exercising authority 1.d.

- c. The regional administrator, division director, branch chief, section chief, or appropriate staff must consult with the regional counsel or his/her delegatee and obtain concurrence on legal sufficiency of documents to be issued before exercising authorities 1.a or 1.d.
- d. The OECA AA may only exercise authorities 1.a through 1.d. and may only exercise those authorities in multi-regional cases and cases of national significance.
- e. The Environmental Appeals Board may only exercise authorities 1.e and 1.f. and only in those cases initiated by Headquarters.

4. REDELEGATION AUTHORITY.


- a. The authorities in 1.a. and 1.d. may be redelegated to the branch chief level, and no further.
- b. The authorities in 1.b. and 1.c. may be further redelegated to the staff possessing the appropriate qualifications.
- c. The authority in 1.e. to issue final orders may be redelegated to the regional judicial officer.
- d. An official who redelegates an authority retains the right to exercise or withdraw the authority. Redelegated authority may be exercised by any official in the chain of command down to the official to whom it has been specifically redelegated.

5. SUPERSESSSION. This delegation supersedes R10 2-52-A (06/26/2017) and any other delegation of the same authority.

6. ADDITIONAL REFERENCES.

- a. Section 309(g) and 311 of CWA.
- b. Chapter 1, Delegations 1-37 and 1-38 entitled "Hearings" and "Adjudicatory Proceedings."
- c. 40 CFR Part 22.
- d. EPA Delegation 2-52-A.

February 10, 2020
Date


Chris Hladick
Regional Administrator